

Senate Bill 509

By: Senators Rogers of the 21st and Shafer of the 48th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to revise substantially the manner and method of collecting local sales and use
3 taxes; to change certain provisions regarding collection of certain local taxes by the state
4 revenue commissioner; to change certain provisions regarding administration and collection
5 of the joint county and municipal sales and use tax; to change certain provisions regarding
6 required information on sales tax returns; to change certain provisions regarding distribution
7 and use of proceeds of such tax; to change certain provisions regarding procedures for
8 certifying additional qualified municipalities; to change certain provisions regarding
9 distribution of proceeds to qualified municipalities which cease to be qualified; to change
10 certain provisions regarding levy of such tax in certain special districts; to change certain
11 provisions regarding administration by the state revenue commissioner of the homestead
12 option sales and use tax; to change certain provisions regarding the administration by the
13 state revenue commissioner of the county special purpose local option sales tax; to change
14 certain provisions regarding return requirements of such sales tax; to change certain
15 provisions regarding disbursement of the proceeds of such tax; to change certain provisions
16 regarding the imposition and collection of the sales tax for educational purposes; to change
17 certain provisions regarding the administration by the state revenue commissioner of the
18 water and sewer projects and costs tax; to change certain provisions regarding identification
19 of location of certain retail establishments; to change certain provisions regarding
20 distribution of proceeds of such tax; to repeal conflicting laws; and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
24 amended by revising Code Section 48-2-10, relating to collection of certain local taxes by
25 the state revenue commissioner, as follows:

S. B. 509

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"48-2-10.

(a) The commissioner is authorized to negotiate and contract with the governing authority of any county or municipality for the purpose of arranging for the collection by the commissioner of:

(1) Any any tax levied by the county or municipality when the tax is also levied and collected by the commissioner for the state; or

(2) Any tax levied within a special district which includes such county or municipality.

(b) The agreement shall include a fee to be paid by the county or municipality to the commissioner in an amount which covers fully the cost of collection of the local portion of the tax by the commissioner. The commissioner shall transmit to the county or municipality all taxes so collected on behalf of the county or municipality on or before the date specified in the agreement, less the collection fee agreed upon.

(c) Any county or municipality, by ordinance or resolution of the governing authority thereof, may administer and collect, or contract for the collection of, any local sales and use taxes, any taxes levied by a special district which includes such county or municipality, or other local taxes levied or authorized to be levied by law. Where the governing authority provides by ordinance or resolution for the administration and collection of local taxes, the collection of the local sales and use taxes shall occur at the same time as state sales and use taxes are due to be paid to the department, unless otherwise provided by law.

(d) Any county or municipality which elects to administer and collect, or contract for the collection of, any local or special district sales and use taxes or other local taxes, shall have the same rights, remedies, power, and authority, including the right to adopt and implement the same procedures, as would be available to the department if the tax or taxes were being administered and collected by the department."

SECTION 2.

Said title is further amended by revising Code Section 48-8-87, relating to administration and collection of the joint county and municipal sales and use tax, as follows:

"48-8-87.

The tax levied pursuant to this article shall be exclusively administered and collected ~~by the commissioner~~ for the use and benefit of each county whose geographical boundary is conterminous with that of a special district and of each qualified municipality located wholly or partially therein. The provisions of Code Section 48-2-10 shall be applicable to the administration and collection of such tax. When such tax is administered and collected by the commissioner, such ~~Such~~ administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter. The, except that the joint tax provided in this article

1 shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by
2 paragraph (5.2) of Code Section 48-8-2; provided, however, that all moneys collected from
3 each taxpayer ~~by the commissioner~~ shall be applied first to such taxpayer's liability for
4 taxes owed the ~~state~~ jurisdiction administering and collecting such tax. Dealers shall be
5 allowed a percentage of the amount of the tax due and accounted for and shall be
6 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
7 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
8 and subject to the requirements specified under subsections (b) through (f) of Code Section
9 48-8-50."

10 SECTION 3.

11 Said title is further amended by revising Code Section 48-8-88, relating to required
12 information on sales tax returns, as follows:

13 "48-8-88.

14 Each sales tax return remitting taxes collected under this article shall separately identify
15 the location of each retail establishment at which any of the taxes remitted were collected
16 and shall specify the amount of sales and the amount of taxes collected at each
17 establishment for the period covered by the return in order to facilitate the determination
18 ~~by the commissioner~~ that all taxes imposed by this article are collected and distributed
19 according to situs of sale."

20 SECTION 4.

21 Said title is further amended by revising Code Section 48-8-89, relating to distribution and
22 use of proceeds, as follows:

23 "48-8-89.

24 (a) The proceeds of the tax collected ~~by the commissioner~~ in each special district under
25 this article shall be disbursed as soon as practicable after collection as follows:

26 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
27 by the commissioner, an amount or percentage agreed to pursuant to the terms of Code
28 Section 48-2-10 shall be paid into the general fund of the state treasury in order to defray
29 the costs of administration;

30 (2) Except for the amount or percentage provided in paragraph (1) of this subsection, the
31 remaining proceeds of the tax shall be distributed to the governing authority of each
32 qualified municipality within the special district and to the governing authority of the
33 county whose geographical boundary is conterminous with that of the special district for
34 the purpose of assisting such political subdivisions in funding all or any portion of those

1 services which are to be provided by such governing authorities pursuant to and in
2 accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

3 (b) It is the intent of the General Assembly that no agreement as to the distribution of the
4 proceeds of the tax shall enrich any political subdivision beyond a sum which in the
5 absence of the distribution would be raised through other sources of revenue. The
6 distribution shall be in accordance with a certificate which shall be executed in behalf of
7 each respective governing authority, except as otherwise provided in this subsection, and
8 which shall encompass all respective political subdivisions, shall be filed with the
9 commissioner, and shall specify by percentage that portion of the remaining proceeds of
10 the tax available for distribution which each such political subdivision shall receive. On or
11 after July 1, 1995, the distribution of proceeds of the tax as specified in the certificate shall
12 be based upon, but not be limited to, the following criteria:

13 (1) The service delivery responsibilities of each political subdivision to the population
14 served by the political jurisdiction and served during normal business hours, conventions,
15 trade shows, athletic events and the inherent value to a community of a central business
16 district and the unincorporated areas of the county and the obligation of all residents of
17 the county for the maintenance and prosperity of the central business district and the
18 unincorporated areas of the county;

19 (2) The service delivery responsibilities of each political subdivision to the resident
20 population of the subdivision;

21 (3) The existing service delivery responsibility of each political subdivision;

22 (4) The effect of a change in sales tax distribution on the ability of each political
23 subdivision to meet its short-term and long-term debt;

24 (5) The point of sale and use which generates the tax to be apportioned;

25 (6) The existence of intergovernmental agreements among and between the political
26 subdivisions;

27 (7) The use by any political subdivision of property taxes and other revenues from some
28 taxpayers to subsidize the cost of services provided to other taxpayers of the levying
29 subdivision; and

30 (8) Any coordinated plan of county and municipal service delivery and financing.

31 Notwithstanding the fact that a certificate shall not contain an execution in behalf of one
32 or more qualified municipalities within the special district, if the combined total of the
33 populations of all such absent municipalities is less than one-half of the aggregate
34 population of all qualified municipalities located within the special district, the submitting
35 political subdivisions shall, in behalf of the absent municipalities, specify a percentage of
36 that portion of the remaining proceeds which each such municipality shall receive, which
37 percentage shall not be less than that proportion which each absent municipality's

population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed. No certificate may contain a total of specified percentages in excess of 100 percent. The certificate shall be filed with the commissioner by March 1, 1980, for those special districts in which the tax authorized by this article is being levied on January 1, 1980. For all other special districts in which the tax shall be imposed subsequent to January 1, 1980, the certificate shall be filed with the commissioner within 60 days after the tax is imposed within the district. ~~The commissioner shall continue to distribute the proceeds of the tax~~ shall continue to be distributed as otherwise provided in this Code section until the first day of the next calendar year following the month in which the commissioner receives a certificate as provided in this Code section, which certificate shall provide other percentages upon which ~~the commissioner shall make the distribution~~ shall be made to the political subdivisions entitled to the proceeds of the tax. At such time, ~~the commissioner shall thereafter distribute the proceeds of the tax~~ shall be distributed in accordance with the directions of the certificate.

(c) If the certificate provided for in subsection (b) of this Code section is not received by the commissioner by the required date, the authority to impose the tax authorized by Code Section 48-8-82 shall cease on the first day of the second calendar month following the month in which the tax was initially imposed and the tax shall not be levied in the special district after such date unless the reimposition of the tax is subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, ~~the commissioner~~ the jurisdiction administering and collecting such tax shall retain the proceeds of the tax which were to be distributed to the governing authorities of the county and qualified municipalities within the special district until ~~he~~ the commissioner receives a certificate in behalf of each such governing authority specifying the percentage of the proceeds which each such governing authority shall receive. If no such certificate is received by the commissioner within 120 days of the date on which the authority to levy the tax was terminated, the proceeds shall escheat to the state and the jurisdiction administering and collecting such tax shall transfer the proceeds to the commissioner ~~shall for transfer the proceeds~~ to the state's general fund.

(d)(1) Except as otherwise provided in paragraph (7) of this subsection, a certificate providing for the distribution of the proceeds of the tax authorized by this article shall expire on December 31 of the second year following the year in which the decennial census is conducted. No later than December 30 of the second year following the year in

1 which the census is conducted, a renegotiated certificate meeting the requirements for
2 certificates specified by subsection (b) of this Code section shall be filed with and
3 received by the commissioner. The General Assembly recognizes that the requirement
4 for government services is not always in direct correlation with population. Although a
5 renegotiated certificate is required within a time certain of the decennial census, this
6 requirement is not meant to convey an intent by the General Assembly that population
7 as a criterion should be more heavily weighted than other criteria. It is the express intent
8 of the General Assembly in requiring such renegotiation that eligible political
9 subdivisions shall analyze local service delivery responsibilities and the existing
10 allocation of proceeds made available to such governments under the provisions of this
11 article and make rational the allocation of such resources to meet such service delivery
12 responsibilities. Political subdivisions in their renegotiation of such distributions shall at
13 a minimum consider the criteria specified in subsection (b) of this Code section.

14 (2) The commissioner shall be notified in writing of the commencement of renegotiation
15 proceedings by the county governing authority in behalf of all eligible political
16 subdivisions within the special district. The eligible political subdivisions shall
17 commence renegotiations at the call of the county governing authority but no later than
18 July 1 of the second year following the year in which the census is conducted. If the
19 county governing authority does not issue the call by that date, any eligible municipality
20 may issue the call and so notify the commissioner.

21 (3) Following the commencement of such renegotiation, if the parties fail to reach an
22 agreement within 60 days, such parties shall agree to submit the dispute to nonbinding
23 arbitration, mediation, or such other means of resolving conflicts in a manner which, in
24 the judgment of the commissioner, reflects a good faith effort to resolve the dispute. Any
25 renegotiation agreement reached pursuant to this paragraph shall be in accordance with
26 the requirements specified in paragraph (1) of this subsection.

27 (4) If the renegotiated certificate provided for in paragraph (1) of this subsection is not
28 received by the commissioner by the required date, the authority to impose the tax
29 authorized by Code Section 48-8-82 shall cease on December 31 of the second year
30 following the year in which the decennial census is conducted and the tax shall not be
31 levied in the special district after such date unless the reimposition of the tax is
32 subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the
33 tax is so terminated, ~~the commissioner~~ the jurisdiction administering and collecting such
34 tax shall retain the proceeds of the tax which were to be distributed to the governing
35 authorities of the county and qualified municipalities within the special district until the
36 commissioner receives a certificate in behalf of each such governing authority specifying
37 the percentage of the proceeds which each such governing authority shall receive. If no

1 such certificate is received by the commissioner within 120 days of the date on which the
2 authority to levy the tax was terminated, the proceeds shall escheat to the state and the
3 jurisdiction administering and collecting such tax shall transfer the proceeds to the
4 commissioner ~~shall~~ for transfer the proceeds to the state's general fund.

5 (5) If the commissioner receives the renegotiated certificate by the required date, ~~the~~
6 ~~commissioner shall distribute~~ the proceeds of the tax shall be distributed in accordance
7 with the directions of the renegotiated certificate commencing on January 1 of the year
8 immediately following the year in which such certificate was renegotiated or the first day
9 of the second calendar month following the month such certificate was renegotiated,
10 whichever is sooner.

11 (6) Costs of any conflict resolution under paragraph (3) of this subsection shall be borne
12 proportionately by the affected political subdivisions in accordance with the final
13 percentage distributions of the proceeds of the tax as reflected by the renegotiated
14 certificate.

15 (7) All distribution certificates on file with the commissioner on July 1, 1994, which
16 were not renegotiated in accordance with the 1990 decennial census figures or
17 renegotiated on or after January 1, 1992, shall expire on December 31, 1995.
18 Renegotiations with respect to such certificates shall be commenced in accordance with
19 the requirements of this subsection on or before July 1, 1994. If a renegotiated certificate
20 is not received by the commissioner by July 1, 1995, the authority to impose the tax
21 authorized by Code Section 48-8-82 shall cease on December 31, 1995, and the tax shall
22 not be levied in the special district after that date unless reimposition of the tax is
23 subsequently authorized pursuant to Code Section 48-8-85. ~~The commissioner shall retain~~
24 ~~and distribute the~~ proceeds of such terminated tax shall be distributed in accordance with
25 paragraph (4) of this subsection.

26 (8) No qualified municipality within the special district whose population is less than 5
27 percent of the population in the special district according to the United States decennial
28 census of 1990 shall receive a reduced percentage of distribution than presently being
29 received under the existing certificate prior to renegotiations required in paragraph (7) of
30 this subsection unless the new agreement is executed by the qualified municipality. This
31 paragraph shall apply only to the negotiations required by paragraph (7) of this subsection
32 and shall not apply to any subsequent renegotiations required by this subsection.

33 (9) Political subdivisions shall be authorized, at their option, to renegotiate distribution
34 certificates on a more frequent basis than is otherwise required under this subsection.

35 (10) No provision of this subsection shall apply to any county which is authorized to levy
36 or which levies a local sales tax, local use tax, or local sales and use tax for educational
37 purposes pursuant to a local constitutional amendment or to any county which is

1 authorized to expend all or any portion of the proceeds of any sales tax, use tax, or sales
2 and use tax for educational purposes pursuant to a local constitutional amendment."

3 **SECTION 5.**

4 Said title is further amended by revising Code Section 48-8-89.1, relating to procedure for
5 certifying additional qualified municipalities, as follows:

6 "48-8-89.1.

7 (a) If there exists within any special district in which the tax authorized by this article is
8 imposed a qualified municipality which was not a qualified municipality on the date of
9 filing with the commissioner of the most recently filed certificate under Code Section
10 48-8-89, such qualified municipality may request the commissioner to give notice of the
11 qualified municipality's existence as provided in this subsection. Upon receipt of such a
12 request, the commissioner shall, unless he determines that the requesting entity is not a
13 qualified municipality, within 30 days give written notice of the qualified municipality's
14 existence to the county which is conterminous with the special district in which the
15 qualified municipality is located and to each other qualified municipality within the special
16 district. Such written notice shall include the name of the new qualified municipality, the
17 effective date of the notice, and a statement of the provisions of this Code section.

18 (b) Within 60 days after the effective date of the notice referred to in subsection (a) of this
19 Code section, a new distribution certificate shall be filed with the commissioner for the
20 special district. This distribution certificate shall specify by percentage what portion of the
21 proceeds of the tax available for distribution within the special district shall be received by
22 the county in which the special district is located and by each qualified municipality
23 located wholly or partially within the special district, including the new qualified
24 municipality. No distribution certificate may contain a total of specified percentages in
25 excess of 100 percent.

26 (c) Except as otherwise provided in this subsection, a distribution certificate required by
27 this Code section must be executed by the governing authorities of the county within which
28 the special district is located and each qualified municipality located wholly or partially
29 within the special district, including the new qualified municipality. Notwithstanding the
30 fact that a certificate shall not contain an execution in behalf of one or more qualified
31 municipalities within the special district, if the combined total of the populations of all such
32 absent municipalities is less than one-half of the aggregate population of all qualified
33 municipalities located within the special district, the submitting political subdivisions shall,
34 in behalf of the absent municipalities, specify a percentage of that portion of the remaining
35 proceeds which each such municipality shall receive, which percentage shall not be less
36 than that proportion which each absent municipality's population bears to the total

1 population of all qualified municipalities within the special district multiplied by that
2 portion of the remaining proceeds which are received by all qualified municipalities within
3 the special district. For the purpose of determining the population of the absent
4 municipalities, only that portion of the population of each such municipality which is
5 located within the special district shall be computed.

6 (d) If a new certificate is not filed for any special district as required by this Code section,
7 the authority to impose the tax authorized by Code Section 48-8-82 within that special
8 district shall cease on the first day of January of the year following the year in which the
9 required distribution certificate could last have been timely filed. In any special district in
10 which the authority to impose the tax is terminated pursuant to this subsection, the tax may
11 thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84
12 through 48-8-86.

13 (e) If a new certificate is filed as required by this Code section, ~~the commissioner shall~~
14 ~~begin to distribute~~ the proceeds shall begin to be distributed as specified in the new
15 certificate on the first day of January of the first calendar year which begins more than 60
16 days after the effective date of the notice referred to in subsection (b) of this Code section.
17 The ~~commissioner shall continue to distribute the~~ proceeds of the tax shall continue to be
18 distributed according to the new certificate until a subsequent certificate is filed and
19 becomes effective as provided in Code Section 48-8-89.

20 (f)(1) As used in this subsection, the term:

21 (A) 'New qualified municipality' means a municipal corporation which has been
22 chartered by local Act since the date of filing with the commissioner of the most
23 recently filed certificate under Code Section 48-8-89 within a county which has a
24 special district for the provision of local government services consisting of the
25 unincorporated area of the county where the population of the unincorporated area of
26 the county, after removal of the population of the new municipality from the
27 unincorporated area, constitutes less than 20 percent of the population of the county
28 according to the most recent decennial census.

29 (B) 'Newly expanded qualified municipality' means a municipal corporation which
30 since the date of filing with the commissioner of the most recently filed certificate
31 under Code Section 48-8-89 has increased its population by more than 15 percent
32 through one or more annexations and is located in the same county as a new qualified
33 municipality.

34 (2) Notwithstanding any other provision of this Code section, if there exists within any
35 special district in which the tax authorized by this article is imposed a new qualified
36 municipality or a newly expanded qualified municipality or both, such qualified
37 municipality or municipalities may request the commissioner to give notice of the

1 qualified municipality's or municipalities' existence and status as a new qualified
2 municipality or newly expanded qualified municipality as provided in this subsection.
3 Upon receipt of such a request, the commissioner shall, unless he or she determines that
4 the requesting entity is not a new qualified municipality or newly expanded qualified
5 municipality, within 30 days give written notice of the qualified municipality's existence
6 and status to the county which is conterminous with the special district in which the
7 qualified municipality is located and to each other qualified municipality within the
8 special district. Such written notice shall include the name of the new qualified
9 municipality or newly expanded qualified municipality, the effective date of the notice,
10 and a statement of the provisions of this subsection.

11 (3) Within 60 days after the effective date of the notice referred to in paragraph (2) of
12 this subsection, a new distribution certificate shall be filed with the commissioner for the
13 special district. This distribution certificate shall address only the proceeds of the tax
14 available for distribution from the percentage allocated to the county in the current
15 distribution certificate and shall specify as a percentage of the total proceeds of the tax
16 what portion of the proceeds shall be received by the county in which the special district
17 is located and by the new qualified municipality and newly expanded qualified
18 municipality, if any.

19 (4) Except as otherwise provided in this paragraph, a distribution certificate required by
20 this subsection must be executed by the governing authorities of the county within which
21 the special district is located each new qualified municipality located wholly or partially
22 within the special district, and each newly expanded qualified municipality, if any. If a
23 new certificate is not filed within 60 days as required by paragraph (3) of this subsection,
24 ~~the commissioner shall distribute~~ the proceeds of the tax available for distribution from
25 the percentage allocated to the county in the current distribution certificate shall be
26 distributed such that:

27 (A) The new qualified municipality receives an allocation equal on a per capita basis
28 to the average per capita allocation to the other qualified municipalities in the county
29 (according to population), to be expended as provided in paragraph (2) of subsection
30 (a) of Code Section 48-8-89; and

31 (B) Any newly expanded qualified municipality receives a total allocation of tax
32 proceeds (including any amount previously allocated) equal on a per capita basis to the
33 average per capita allocation to the other qualified municipalities in the county
34 (according to population), to be expended as provided in paragraph (2) of subsection
35 (a) of Code Section 48-8-89.

36 Every other qualified municipality shall continue to receive the share provided by the
37 existing distribution certificate or otherwise provided by law. The county shall receive

1 the remaining proceeds of the tax, to be expended as provided in paragraph (2) of
2 subsection (a) of Code Section 48-8-89. For the purpose of determining the population
3 of qualified municipalities, only that portion of the population of each such municipality
4 which is located within the special district shall be computed. For the purpose of
5 determining population under this Code section, all calculations of population shall be
6 according to the most recent decennial census, including the census data from such
7 census applicable to any annexed territory.

8 (5) The ~~commissioner shall begin to distribute the~~ proceeds shall be distributed as
9 specified in the newly filed certificate or, if such a certificate is not filed, as specified in
10 paragraph (4) of this subsection on the first day of the first month which begins more than
11 60 days after the effective date of the notice referred to in paragraph (2) of this
12 subsection. The ~~commissioner shall continue to distribute the~~ proceeds of the tax shall
13 continue to be distributed according to the existing certificate and the certificate
14 applicable to the county and the new qualified municipality or, if such a certificate is not
15 filed, as specified in paragraph (4) of this subsection until a subsequent certificate is filed
16 and becomes effective as provided in Code Section 48-8-89."

17 SECTION 6.

18 Said title is further amended by revising Code Section 48-8-89.2, relating to distribution of
19 proceeds to qualified municipalities which cease to be qualified, as follows:

20 "48-8-89.2.

21 If the commissioner determines that a qualified municipality entitled to receive tax
22 proceeds under this article has ceased to be a qualified municipality, ~~he shall thereafter~~
23 ~~distribute~~ the percentage of the proceeds of the tax to which that qualified municipality was
24 entitled shall thereafter be distributed to the county which is conterminous with the special
25 district and to each other qualified municipality within the special district pro rata
26 according to the percentages of the tax to which each other such political subdivision is
27 otherwise entitled; and such distribution formula shall remain in effect until a new
28 certificate is filed and becomes effective as provided in Code Section 48-8-89."

29 SECTION 7.

30 Said title is further amended by revising Code Section 48-8-89.3, relating to levy of the tax
31 in certain special districts, as follows:

32 "48-8-89.3.

33 (a) Notwithstanding any other provision of this article to the contrary, the tax provided for
34 in Code Section 48-8-82 shall be levied in any special district in which:

(1) Prior to January 1, 1980, a joint county and municipal sales and use tax was levied pursuant to Ga. L. 1975, p. 984, Section 2 (as amended by Ga. L. 1975, Ex. Sess., p. 1729, Section 1; Ga. L. 1976, p. 1019, Sections 1-13; Ga. L. 1977, p. 1008, Section 1; Ga. L. 1978, p. 1429, Sections 1-3; Ga. L. 1978, p. 1460, Sections 1-3; Ga. L. 1978, p. 1678, Section 1; Ga. L. 1978, p. 1695, Section 1; Ga. L. 1979, p. 446, Section 1) or in which a referendum election had authorized the levying of such a tax within the special district;

(2) The tax provided for in Code Section 48-8-82 was actually collected during the period of January 1, 1980, to January 1, 1989; and

(3) There exists a qualified municipality which lies wholly or partially within the special district and which:

(A) Was a qualified municipality at the time of filing of the distribution certificate most recently filed with the commissioner under Code Section 48-8-89; and

(B) Was not assigned any percentage of the net proceeds of the tax under such distribution certificate.

In any special district which meets the criteria specified in this subsection, the tax provided for in Code Section 48-8-82 shall be levied without regard to any past defects in compliance with the procedures specified by this article for the imposition of the tax.

(b) A qualified municipality described in paragraph (3) of subsection (a) of this Code section, for which receipt of a portion of the net tax proceeds was not specified in the certificate most recently filed with the commissioner under Code Section 48-8-89, may request the commissioner to thereafter ~~distribute~~ recalculate the distribution of a portion of the net tax proceeds to the qualified municipality as provided in this Code section. Upon receipt of such a request, the commissioner shall thereafter, unless he determines that the requesting municipality does not meet the criteria specified in this Code section, give written notice of a new distribution formula to the county which is conterminous with the special district, to the requesting qualified municipality, and to each other qualified municipality within the special district. Such new distribution formula shall be determined as follows:

(1) Begin with the percentages specified in the distribution certificate most recently filed with the commissioner;

(2) Assign to the requesting municipality a percentage of the net proceeds which is equal to the total percentage of the net proceeds previously distributed to all other qualified municipalities in the special district multiplied by a fraction, the numerator of which is the population of the requesting municipality and the denominator of which is the population of all qualified municipalities within the special district;

(3) Deduct the percentage of the net proceeds so assigned to the requesting municipality from the percentages previously assigned to all other qualified municipalities within the special district, such deductions to be pro rata on the basis of population; and

(4) Make no change in the percentage of the net proceeds previously distributed to the county which is conterminous with the special district.

(c) This new distribution formula shall be implemented at the earliest date deemed administratively practicable ~~by the commissioner~~, and the notice specified in subsection (b) of this Code section shall include such date. This new distribution formula shall remain in effect until a subsequent distribution certificate is filed and becomes effective as provided in Code Section 48-8-89.

(d) For the purpose of all population based calculations under this Code section, only that portion of the population of a qualified municipality which is located within the special district shall be computed."

SECTION 8.

Said title is further amended by revising Code Section 48-8-104, relating to administration by the state revenue commissioner of the homestead option sales and use tax, as follows:

"48-8-104.

(a) The sales and use tax levied pursuant to this article shall be exclusively administered and collected ~~by the commissioner~~ for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. The provisions of Code Section 48-2-10 shall be applicable to the administration and collection of such tax. When such tax is administered and collected by the commissioner, such Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter. The ~~except that the~~ sales and use tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer ~~by the commissioner~~ shall be applied first to such taxpayer's liability for taxes owed the ~~state~~ jurisdiction administering and collecting such tax. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

(b) Each sales and use tax return remitting sales and use taxes collected under this article shall separately identify the location of each retail establishment at which any of the sales and use taxes remitted were collected and shall specify the amount of sales and the amount

1 of taxes collected at each establishment for the period covered by the return in order to
2 facilitate the determination ~~by the commissioner~~ that all sales and use taxes imposed by this
3 article are collected and distributed according to situs of sale.

4 (c) The proceeds of the sales and use tax collected ~~by the commissioner~~ in each special
5 district under this article shall be disbursed as soon as practicable after collection as
6 follows:

7 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
8 by the commissioner, an amount or percentage agreed to pursuant to the terms of Code
9 Section 48-2-10 shall be paid into the general fund of the state treasury in order to defray
10 the costs of administration;

11 (2) Except for the amount or percentage provided in paragraph (1) of this subsection and
12 the amount determined under subsections (d) and (e) of this Code section, the remaining
13 proceeds of the sales and use tax shall be distributed to the governing authority of the
14 county whose geographical boundary is conterminous with that of the special district;
15 provided, however, that a county and any qualified municipality shall be authorized by
16 intergovernmental agreement to waive the equalization amount otherwise required under
17 subsections (d) and (e) of this Code section and provide for a different distribution
18 amount. In the event of such waiver, except for the percentage provided in paragraph (1)
19 of this subsection, the remaining proceeds of the sales and use tax shall be distributed to
20 the governing authority of the county whose geographical boundary is conterminous with
21 that of the special district. As a condition precedent for the authority to levy the sales and
22 use tax or to collect any proceeds from the tax authorized by this article for the year
23 following the first complete calendar year in which it is levied and for all subsequent
24 years except the year following the year in which the sales and use tax is terminated
25 under Code Section 48-8-106, the county whose geographical boundary is conterminous
26 with that of the special district shall, except as otherwise provided in subsection (c) of
27 Code Section 48-8-102, expend such proceeds as follows:

28 (A) A portion of such proceeds shall be expended for the purpose of funding capital
29 outlay projects as follows:

30 (i) The governing authority of the county whose geographical boundary is
31 conterminous with that of the special district shall establish the capital factor which
32 shall not exceed .200 and, for a county in which a qualified municipality is located,
33 shall not be less than the level required by subsection (d) of this Code section;
34 therefore, at a minimum, the county shall set the capital factor at a level that yields an
35 amount of capital outlay proceeds that is equal to or greater than the sum of all
36 equalization amounts due qualified municipalities and existing municipalities under
37 subsection (e) of this Code section; and

(ii) Capital outlay projects shall be funded in an amount equal to the product of the capital factor multiplied by the net amount of the sales and use tax proceeds collected under this article during the previous calendar year, and this amount shall be referred to as capital outlay proceeds in subsections (d) and (e) of this Code section;

(B) A portion of such proceeds shall be expended for the purpose of funding services within the special district equal to the revenue lost to the homestead exemption as provided in this Code section as follows:

(i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus the capital factor times an amount equal to the net amount of sales and use tax collected in the special district pursuant to this article for the previous calendar year, and then dividing by the taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied, rounding the result to three decimal places;

(ii) If the homestead factor is less than or equal to 1.000, the amount of homestead exemption created under this article on qualified homestead property shall be equal to the product of the homestead factor multiplied times the net assessment of each qualified homestead remaining after all other homestead exemptions have been applied; and

(iii) If the homestead factor is greater than 1.000, the homestead exemption created by this article on qualified homestead property shall be equal to the net assessment of each homestead remaining after all other homestead exemptions have been applied; and

(C) If any of such proceeds remain following the distribution provided for in subparagraphs (A) and (B) of this paragraph and subsections (d) and (e) of this Code section:

(i) The millage rate levied for county purposes shall be rolled back in an amount equal to such excess divided by the net taxable digest for county purposes after deducting all homestead exemptions including the exemption under this article; and

(ii) In the event the rollback created by division (i) of this subparagraph exceeds the millage rate for county purposes, the governing authority of the county whose boundary is conterminous with the special district shall be authorized to expend the surplus funds for funding all or any portion of those services which are to be provided by such governing authorities pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(d)(1) The ~~commissioner~~ authority administering and collecting the tax shall distribute to the governing authority of each qualified municipality located in the special district a

1 share of the capital outlay proceeds calculated as provided in this subsection and
2 subsection (e) of this Code section which proceeds shall be expended for the purpose of
3 funding capital outlay projects of such municipality.

4 (2) Both the tax commissioner and the governing authority for the county in which a
5 qualified municipality is located shall cooperate with and assist the commissioner in the
6 calculation of the equalization amounts under subsection (e) of this Code section and
7 shall, on or before July 1 of each year, provide to the commissioner and the governing
8 authority of each qualified municipality written certification of the following:

9 (A) The capital factor set by the county for the current calendar year; provided,
10 however, that the capital factor may not exceed 0.200;

11 (B) The total amount, if any, due to be paid to existing municipalities from the capital
12 outlay proceeds as required by any intergovernmental agreement between the county
13 and such municipalities;

14 (C) The incorporated county millage rate in each qualified municipality;

15 (D) The net homestead digest for each qualified municipality;

16 (E) The total homestead digest; and

17 (F) The unincorporated county millage rate.

18 If the tax commissioner and the governing authority of the county fail to provide such
19 certification on or before July 1, the commissioner shall not distribute to such county, nor
20 shall such county expend, any additional proceeds of the sales and use tax collected after
21 July 1 unless and until such certification is provided.

22 (3) The commissioner shall then calculate the equalization amount due each qualified
23 municipality based on the certifications provided by the tax commissioner and the
24 governing authority of the county, and provide such calculation to the tax commissioner
25 and the governing authority. The authority responsible for administering and collecting
26 such tax shall and pay such amount to the governing authority of each qualified
27 municipality in six equal monthly payments as soon as practicable during or after each
28 of the last six months of the current calendar year. In the event an existing municipality
29 that has entered into an intergovernmental agreement with a county at any time before
30 January 1, 2007, to receive capital outlay proceeds of the homestead option sales and use
31 tax and such intergovernmental agreement has become or does become null and void for
32 any reason, such existing municipality shall be treated under this article the same as if it
33 were a qualified municipality as defined in paragraph (4) of Code Section 48-8-101 and
34 therefore receive payment of equalization amounts under this article as provided for
35 under this article. The ~~commissioner~~ authority responsible for administering and
36 collecting such tax shall distribute to the governing authority of the county each month

the net sales and use tax remaining after payment of equalization amounts to the qualified municipalities.

(e)(1) As used in this subsection, the term:

(A) 'Equalization amount' means for a qualified municipality the product of the equalization millage times the net homestead digest for that qualified municipality.

(B) 'Equalization millage' means for each qualified municipality the product of the homestead factor calculated pursuant to division (c)(2)(B)(i) of this Code section times the difference between the unincorporated county millage rate and the incorporated county millage rate for that qualified municipality.

(C) 'Incorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in each of the qualified municipalities in the county.

(D) 'Net homestead digest' means for each qualified municipality the total net assessed value of all qualified homestead property located in that portion of the qualified municipality located in the county remaining after all other homestead exemptions are applied.

(E) 'Total homestead digest' means the total net assessed value of all qualified homestead property located in the county remaining after all other homestead exemptions are applied.

(F) 'Unincorporated county millage rate' means the millage rate for all ad valorem taxes for county purposes levied by the county in the unincorporated areas of the county.

(2) For illustration purposes, a hypothetical example of the calculation of the equalization amount is provided below.

First, calculate the homestead factor in accordance with division (c)(2)(B)(i) of this Code section as follows:

(A) Capital factor certified by county as required by subsection (d) of this Code section	0.150
(B) Net amount of sales and use tax collected in the special district pursuant to this article for the previous calendar year	\$ 50 million
(C) Taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied	\$100 million

(D) Calculation of homestead factor using figures above .425
 $= [(1-.0150)(\$50 \text{ million}/\$100 \text{ million})]$

Next, calculate the equalization amount in accordance with
 paragraph (1) of this subsection as follows:

(E) Unincorporated county millage rate 15.0 mills

(F) Minus the incorporated county millage rate for (10.0 mills)
 qualified municipality 'Y'

Difference: = 5.0 mills

(G) Times homestead factor (calculated above) x .425

(H) Equals the equalization millage: = 2.125 mills

(I) Times net homestead digest for qualified \$200 million
 municipality 'Y'

(J) Equals the equalization amount payable to \$ 425,000.00
 municipality 'Y'

(3) In the event the total amount payable in a calendar year to all existing municipalities as certified by the county pursuant to subparagraph (d)(2)(B) of this Code section plus the total equalization amount payable to all qualified municipalities in the special district exceeds the capital outlay proceeds calculated based on a maximum capital factor of 0.200, the ~~commissioner~~ authority responsible for administering and collecting such tax shall pay to the governing authority of each qualified municipality a share of such proceeds calculated as follows:

(A) Determine the capital outlay proceeds based on a maximum capital factor of 0.200;

(B) Subtract the amount certified by the county as payable to existing municipalities pursuant to subparagraph (d)(2)(B) of this Code section;

(C) The remaining amount equals the portion of the capital outlay proceeds that may be used by the commissioner to pay equalization amounts to qualified municipalities.

The commissioner shall calculate each qualified municipality's share of such remaining amount by dividing the net homestead digest for each qualified municipality by the total homestead digest for all municipalities.

(4) In the event the incorporated county millage rate for a qualified municipality is greater than the unincorporated county millage rate, no payment shall be due from the governing authority of the qualified municipality to the governing authority of the county.

(5) In the event the amount of capital outlay proceeds exceeds the sum of the equalization amounts due all qualified municipalities plus the total amount certified under subparagraph (d)(2)(B) of this Code section as due all existing municipalities, the

1 commissioner shall distribute to each qualified municipality a portion of such excess
2 equal to the net homestead digest for such municipality divided by the total homestead
3 digest.

4 (6) If any qualified municipality is located partially in the county then only that portion
5 so located shall be considered in the calculations contained in this subsection."

6 SECTION 9.

7 Said title is further amended by revising Code Section 48-8-113, relating to administration
8 by the state revenue commissioner of the county special purpose local option sales tax, as
9 follows:

10 "48-8-113.

11 A tax levied pursuant to this part shall be exclusively administered and collected ~~by the~~
12 ~~commissioner~~ for the use and benefit of the county and qualified municipalities within such
13 special district imposing the tax. The provisions of Code Section 48-2-10 shall be
14 applicable to the administration and collection of such tax. When such tax is administered
15 and collected by the commissioner, such Such administration and collection shall be
16 accomplished in the same manner and subject to the same applicable provisions,
17 procedures, and penalties provided in Article 1 of this chapter. The except that the sales
18 and use tax provided in this article shall be applicable to sales of motor fuels as prepaid
19 local tax as that term is defined by paragraph (5.2) of Code Section 48-8-2; provided,
20 however, that all moneys collected from each taxpayer ~~by the commissioner~~ shall be
21 applied first to such taxpayer's liability for taxes owed the ~~state~~ jurisdiction administering
22 and collecting such tax; and provided, further, that ~~the commissioner~~ such jurisdiction may
23 rely upon a representation by or in behalf of the county and qualified municipalities within
24 the special district or the Secretary of State that such a tax has been validly imposed, and
25 ~~the commissioner and the commissioner's~~ collecting jurisdiction and its agents shall not
26 be liable to any person for collecting any such tax which was not validly imposed. Dealers
27 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
28 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
29 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
30 and subject to the requirements specified under subsections (b) through (f) of Code Section
31 48-8-50."

32 SECTION 10.

33 Said title is further amended by revising Code Section 48-8-114, relating to return
34 requirements of such sales tax, as follows:

1 "48-8-114.

2 Each sales tax return remitting taxes collected under this article shall separately identify
3 the location of each retail establishment at which any of the taxes remitted were collected
4 and shall specify the amount of sales and the amount of taxes collected at each
5 establishment for the period covered by the return in order to facilitate the determination
6 ~~by the commissioner~~ that all taxes imposed by this article are collected and distributed
7 according to situs of sale."

8 SECTION 11.

9 Said title is further amended by revising Code Section 48-8-115, relating to disbursement of
10 the proceeds of such tax, as follows:

11 "48-8-115.

12 (a) The proceeds of the tax collected ~~by the commissioner~~ in each county within a special
13 district under this part shall be disbursed as soon as practicable after collection as follows:

14 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
15 by the commissioner, an amount or percentage agreed to pursuant to the terms of Code
16 Section 48-2-10 shall be paid into the general fund of the state treasury in order to defray
17 the costs of administration; and

18 (2) Except for the amount or percentage provided in paragraph (1) of this Code section,
19 the remaining proceeds of the tax shall be distributed to the governing authority of the
20 county within the special district imposing the tax as specified in subsection (b) of this
21 Code section.

22 (b) The county within the special district shall distribute any such proceeds as follows:

23 (1) To the county governing authority and any qualified municipalities as specified in an
24 intergovernmental agreement. Where an intergovernmental agreement has been entered
25 into, the agreement shall, at a minimum, include the following:

26 (A) The specific capital outlay project or projects to be funded pursuant to the
27 agreement;

28 (B) The estimated or projected dollar amounts allocated for each project from tax
29 proceeds from the tax authorized by this part;

30 (C) The procedures for distributing proceeds from the tax authorized by this part to
31 qualified municipalities;

32 (D) A schedule for distributing proceeds from the tax authorized by this part to
33 qualified municipalities which schedule shall include the priority or order in which
34 projects will be fully or partially funded;

35 (E) A provision that all capital outlay projects included in the agreement shall be
36 funded from proceeds from the tax authorized by this part except as otherwise agreed;

(F) A provision that proceeds from the tax authorized by this part shall be maintained in separate accounts and utilized exclusively for the specified purposes;

(G) Record-keeping and audit procedures necessary to carry out the purposes of this part; and

(H) Such other provisions as the county and participating municipalities choose to address; or

(2) Where an intergovernmental agreement has not been entered into pursuant to paragraph (1) of this subsection, the county within the special district shall distribute the proceeds of the tax authorized by this part as follows:

(A)(i) To the governing authority of the county for one or more level one county-wide projects specified by the governing authority of the county in the ordinance or resolution required by subsection (a) of Code Section 48-8-111; provided, however, that any tax levied under this part that funds level one county-wide projects where an intergovernmental agreement has not been entered into pursuant to paragraph (1) of this subsection shall be levied for a five-year period. In the event that any or all level one county-wide projects are estimated to cost an amount which exceeds the proceeds projected to be collected during a 24 month period of the levy of the tax, the tax shall be levied for a six-year period.

(ii) In the event that no level one county-wide project is included in the ordinance or resolution required by subsection (a) of Code Section 48-8-111, to the governing authority of the county for one or more level two county-wide projects specified by the governing authority of the county in the ordinance or resolution required by subsection (a) of Code Section 48-8-111. In the event no level one county-wide project is included in the ordinance or resolution required by subsection (a) of Code Section 48-8-111 and the governing authority of the county has specified one or more municipal projects as level two county-wide projects in the ordinance or resolution required by subsection (a) of Code Section 48-8-111, to the governing authority of the appropriate municipality or municipalities for such level two county-wide projects specified in the ordinance or resolution required by subsection (a) of Code Section 48-8-111. The total estimated cost of all level two county-wide projects specified under this division shall not exceed 20 percent of the proceeds projected to be collected during the period specified in the ordinance or resolution required by subsection (a) of Code Section 48-8-111; or

(B) In the event that no county-wide project is included in the resolution or ordinance calling for the imposition of the tax or in the event that tax proceeds exceed that amount required to fund the county-wide project or projects, the remaining proceeds shall be distributed in the following manner:

(i) As specified in an intergovernmental agreement other than the agreement specified in paragraph (1) of this subsection. The intergovernmental agreement shall include, at a minimum, the information required in paragraph (1) of this subsection; or

(ii) To the qualified municipalities within the special district based upon the ratio that the population of each qualified municipality bears to the total population of the county within the special district. If any qualified municipality is located in more than one county, only that portion of its population that is within the special district shall be counted. The remainder of such proceeds shall be distributed to the governing authority of the county within the special district. Capital outlay projects included in the referendum ballot by the county or any qualified municipalities within the special district shall be based upon the anticipated proceeds and distribution of the tax. The governing authority of the county within the special district shall distribute all proceeds received by the county for the tax levied pursuant to this part to the qualified municipalities within the special district on a monthly basis where proceeds are distributed in accordance with this division."

SECTION 12.

Said title is further amended by revising Code Section 48-8-141, relating to the imposition and collection of the sales tax for educational purposes, as follows:

"48-8-141.

Except as otherwise expressly provided in Article VIII, Section VI, Paragraph IV of the Constitution of Georgia, the sales tax for educational purposes which may be levied by a board of education of a county school district or concurrently by the board of education of a county school district and the board of education of each independent school district located within such county, shall be imposed and levied by such board or boards of education and collected ~~by the commissioner~~ on behalf of such board or boards of education in the same manner as provided for under Part 1 of this article and the provisions of Part 1 of this article in particular, but without limitation, the provisions regarding the authority of the commissioner to administer and collect this tax, retain ~~the 1 percent~~ any agreed administrative fee, and promulgate rules and regulations governing this tax shall apply equally to such board or boards of education."

SECTION 13.

Said title is further amended by revising Code Section 48-8-204, relating to administration by the state revenue commissioner of the water and sewer projects and costs tax, as follows:

1 "48-8-204.

2 A tax levied pursuant to this article shall be exclusively administered and collected by the
3 ~~commissioner~~ for the use and benefit of the municipality imposing the tax. The provisions
4 of Code Section 48-2-10 shall be applicable to the administration and collection of such
5 tax. When such tax is administered and collected by the commissioner, such Such
6 administration and collection shall be accomplished in the same manner and subject to the
7 same applicable provisions, procedures, and penalties provided in Article 1 of this chapter.
8 The ~~except that the~~ sales and use tax provided in this article shall be applicable to sales of
9 motor fuels as prepaid local tax as that term is defined by paragraph (5.2) of Code Section
10 48-8-2; provided, however, that all moneys collected from each taxpayer by the
11 ~~commissioner~~ shall be applied first to such taxpayer's liability for taxes owed the state
12 jurisdiction administering and collecting such tax; and provided, further, that the
13 ~~commissioner~~ such jurisdiction may rely upon a representation by or in behalf of the
14 municipality or the Secretary of State that such a tax has been validly imposed, and the
15 ~~commissioner and the commissioner's~~ collecting jurisdiction and its agents shall not be
16 liable to any person for collecting any such tax which was not validly imposed. Dealers
17 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
18 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
19 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
20 and subject to the requirements specified under subsections (b) through (f) of Code Section
21 48-8-50."

22 SECTION 14.

23 Said title is further amended by revising Code Section 48-8-205, relating to identification of
24 location of certain retail establishments, as follows:

25 "48-8-205.

26 Each sales and use tax return remitting sales and use taxes collected under this article shall
27 separately identify the location of each retail establishment at which any of the sales and
28 use taxes remitted were collected and shall specify the amount of sales and the amount of
29 taxes collected at each establishment for the period covered by the return in order to
30 facilitate the determination by the ~~commissioner~~ that all sales and use taxes imposed by this
31 article are collected and distributed according to situs of sale."

32 SECTION 15.

33 Said title is further amended by revising Code Section 48-8-206, relating to distribution of
34 proceeds of such tax, as follows:

1 "48-8-206.

2 The proceeds of the tax collected ~~by the commissioner~~ in each municipality under this
3 article shall be disbursed as soon as practicable after collection as follows:

4 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
5 by the commissioner, an amount or percentage agreed to pursuant to the terms of Code
6 Section 48-2-10 shall be paid into the general fund of the state treasury in order to defray
7 the costs of administration; and

8 (2) The remaining proceeds of the tax shall be distributed to the governing authority of
9 the municipality imposing the tax."

10 **SECTION 16.**

11 All laws and parts of laws in conflict with this Act are repealed.